

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> <b>DQC #:</b> _____ <b>DATE FILED:</b> <u>4-3-18</u>
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CITY OF NEW YORK,

Plaintiff,

-against-

BP P.L.C.; CHEVRON CORPORATION;  
CONOCOPHILLIPS; EXXON MOBIL  
CORPORATION; and ROYAL DUTCH SHELL  
PLC,

Defendants.

~~PROPOSED~~ ORDER RE:  
SCHEDULING FOR MOTIONS TO  
DISMISS PLAINTIFF'S AMENDED  
COMPLAINT

Case No. 18-cv-182-JFK

WHEREAS, Plaintiff City of New York and Defendants Chevron Corporation ("Chevron"), Exxon Mobil Corporation ("Exxon"), and ConocoPhillips ("ConocoPhillips," and collectively, the "U.S.-based Defendants") by and through their counsel have agreed to a proposed briefing schedule for the reasons set forth in the attached letter, and Defendants BP p.l.c. ("BP"), and Royal Dutch Shell plc ("RDS," and collectively, the "foreign-based Defendants") (Chevron, ConocoPhillips, Exxon, BP, and RDS, collectively, "Defendants") do not object to the requested schedule;

## IT IS HEREBY ORDERED THAT

1. The following deadlines shall apply to the U.S.-based Defendants' motions to dismiss, which were served on Plaintiff on March 30, 2018:
  - (a) On or before April 25, 2018, Plaintiff shall serve its responses to the "Memorandum of Law of Chevron Corporation, ConocoPhillips, and Exxon Mobil Corporation Addressing Common Grounds in Support of Their Motions to Dismiss Plaintiff's Amended Complaint," and to "ConocoPhillips' Memorandum of Law Addressing Individual Issues in Support of Its Motion to Dismiss Plaintiff's Amended Complaint," insofar as it addresses individual 12(b)(6) issues (i.e., "Point I" of that Memorandum).

- (b) Pending further order of the Court, and as set forth in this Court's March 9, 2018 Order, any further briefing on the personal jurisdiction issues raised by ConocoPhillips and Exxon will be deferred, and Plaintiff therefore need not serve a response to those issues at this time, however, Exxon and ConocoPhillips shall electronically file their opening briefs on these issues on April 25, 2018, and May 4, 2018, respectively.
- (c) On or before May 4, 2018, the U.S.-based Defendants shall serve their reply briefs in support of the "Memorandum of Law of Chevron Corporation, ConocoPhillips, and Exxon Mobil Corporation Addressing Common Grounds in Support of Their Motions to Dismiss Plaintiff's Amended Complaint" and "ConocoPhillips' Memorandum of Law Addressing Individual Issues in Support of Its Motion to Dismiss Plaintiff's Amended Complaint," insofar as it addresses individual 12(b)(6) issues (i.e., "Point I" of that Memorandum).
- (d) Consistent with the date set by the Court's March 9, 2018 Order, the Court will hear arguments on the U.S.-based Defendants' motion to dismiss on 12(b)(1) and 12(b)(6) grounds on June 13, 2018 at 11:00 A.M.

2. IT IS FURTHER ORDERED THAT within ten (10) days of the Court's ruling on the U.S.-based Defendants' motions to dismiss on 12(b)(1) and 12(b)(6) grounds, Plaintiff and the U.S.-based Defendants shall submit their joint or separate proposals as to how to proceed with respect to the personal jurisdiction objections raised by ConocoPhillips and Exxon (*e.g.*, whether resolution of those objections is necessary at that time in light of the Court's ruling, and if so, how to proceed in briefing and resolving those issues).

3. IT IS FURTHER ORDERED THAT pending further order of the Court, neither BP nor RDS need respond to the Plaintiff's Amended Complaint. Within ten (10) days of the Court's ruling on the U.S.-based Defendants' motions to dismiss on 12(b)(1) and 12(b)(6) grounds, Plaintiff and the foreign-based Defendants shall submit their joint or separate proposals as to how to proceed with respect to the foreign-based Defendants (*e.g.*, whether the filing of motions to dismiss is warranted at that time in light of the Court's ruling, and if so, how to proceed in briefing and resolving those issues).

4. The parties agree, and the Court HEREBY ORDERS, that nothing about the entry of this Order (or the parties' agreement thereto) deferring the opposition and reply briefing on ConocoPhillips' and Exxon's defenses under Rule 12(b)(2) effects a waiver of those defenses. By agreeing to the entry of this Order, ConocoPhillips and Exxon do not waive their objections to personal jurisdiction; on the contrary, they expressly preserve those objections. Plaintiff agrees that it will not assert that there has been any waiver of ConocoPhillips' and Exxon's objections to personal jurisdiction because of the entry of this Order or the parties' agreement to such entry.

5. The parties agree, and the Court HEREBY ORDERS, that nothing about the entry of this Order (or the parties agreement thereto) deferring the responses of the foreign-based Defendants to the Amended Complaint until after the Court's ruling on the U.S.-based Defendants' motions to dismiss under Rules 12(b)(1) and 12(b)(6) effects a waiver of any of the foreign-based Defendants' objections to the Amended Complaint, including lack of personal jurisdiction or insufficient service of process. By agreeing to the entry of this Order, the foreign-based Defendants do not waive any of their objections to the Amended Complaint, including lack of personal jurisdiction and insufficient service of process; on the contrary, they expressly preserve all objections to the Amended Complaint. Plaintiff agrees that it will not assert that there has been any waiver of the foreign-based Defendants' objections to the Amended Complaint, including objections of lack of personal jurisdiction and insufficient service of process, because of the entry of this Order or the parties' agreement to such entry.

Date:

4/3/18 John F. Keenan

Hon. John F. Keenan

United States District Judge